

for any lost or late payment caused by the financial institution's actions in processing the change.

(i) Each financial institution by its action of handling a payment under this part shall be deemed to warrant to the Federal Government that it has handled the payment in accordance with the requirements of this part. In addition to the liability which may be imposed pursuant to § 210.11, if the foregoing warranty is breached, the financial institution shall be liable to the Federal Government for any loss sustained by the Federal Government, but only to the extent that the loss was the result of the breach. Except as provided in this section §§ 210.10(b) and 210.11, a financial institution shall not be liable under this part to any party for its handling of a payment.

[52 FR 2406, Jan. 22, 1987, as amended at 54 FR 20570, May 12, 1989]

§ 210.8 Prenotification.

(a) Regardless of whether it has participated in an enrollment, a financial institution's acceptance and handling of a prenotification or a payment issued pursuant to this part shall constitute its agreement to the provisions of this part.

(b) At the discretion of the Service, a prenotification may be originated for any ACH payment.

(c) The financial institution shall respond to the prenotification message by midnight of the banking day following the banking day of receipt of such prenotification if the information contained in the message does not agree with the corresponding record of the financial institution, or if for any reason the financial institution will not be able to credit the payment in accordance with this part.

(d) If a financial institution does not respond to a prenotification message within the specified time period, the financial institution shall be deemed to have accepted the prenotification and to have warranted to the Federal Government that it shall make the payment available on time to the account specified in the prenotification.

[54 FR 20570, May 12, 1989]

§ 210.9 Timeliness of action.

If, because of circumstances beyond its control, action by the Federal Government, a Federal Reserve Bank, or a financial institution is delayed beyond the time prescribed for the action (including the payment date) by this part, by the operating circulars of the Federal Reserve Banks, or by applicable law, the time within which the action shall be completed shall be extended for such time after the cause of the delay ceases to operate as shall be necessary to take or complete the action, provided the Federal Government, the Federal Reserve Bank, or the financial institution exercises such diligence as the circumstances require.

[52 FR 2406, Jan. 22, 1987, redesignated at 54 FR 20570, May 12, 1989]

§ 210.10 Liability of, and acquittance to, the United States.

(a) The United States shall be liable to a recipient for the failure to credit the proper amount of a payment to the appropriate account of the recipient as required by this part. This liability shall be limited to the amount of the payment.

(b) The United States shall be liable to the financial institution, up to the amount of the payment, for a loss sustained by the financial institution as a result of its crediting the amount of the payment to the account specified in the payment instruction, if the financial institution has handled the payment in accordance with this part. The foregoing does not extend to benefit payments received by the financial institution after the death or legal incapacity of the recipient or death of the beneficiary, in which event § 210.11 shall govern.

(c) The crediting of the amount of a payment to the appropriate account of a recipient on the books of the appropriate financial institution shall constitute a full acquittance to the United States for the amount of the payment.

[52 FR 2406, Jan. 22, 1987. Redesignated at 54 FR 20570, May 12, 1989]

§ 210.11 Fraud.

(a) The False Claims Act, 31 U.S.C. 3729, *et seq.*, provides for the recovery of damages and a civil penalty from any